

# EXHIBIT B

CAUSE NO. 2017DCV-0540-B

BANDAS LAW FIRM PC, a Texas	§	IN THE DISTRICT COURT
Professional Corporation and CHRISTOPHER	§	
BANDAS	§	
	§	
<i>Plaintiffs,</i>	§	____ JUDICIAL DISTRICT
	§	
v.	§	
	§	
LANDMARK AMERICAN INSURANCE CO.	§	
	§	NUECES COUNTY, TEXAS
<i>Defendant.</i>	§	

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**PLAINTIFF'S ORIGINAL PETITION**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES, BANDAS LAW FIRM, PC, A Texas Professional Corporation and CHRISTOPHER BANDAS, hereinafter called Plaintiff, complaining of LANDMARK AMERICAN INSURANCE CO., hereinafter called Defendant, and for cause of action Plaintiff would respectfully show the Court the following:

**I. PARTIES**

1. Plaintiff BANDAS LAW FIRM, PC is a Texas corporation that maintains its principal place of business at 500 N. Shoreline Blvd., Ste. 1020, Corpus Christi, Texas 78401.

2. Plaintiff CHRISTOPHER BANDAS is an individual that resides in Corpus Christi, Nueces County, Texas.

3. Defendant LANDMARK AMERICAN INSURANCE COMPANY ("Landmark") is an insurance company doing business in Nueces County, Texas that on information and belief maintains its home office and principal place of business at 945 East Paces Ferry Rd., Ste. 1800, Atlanta, Ga 30326. Although Landmark conducts business in Texas through the sale of

insurance to Texas residents, it does not maintain a registered agent for service of process and may be served through the Texas Secretary of State.

## **II. CONDITIONS PRECEDENT**

4. All conditions precedent for recovery have been performed or have occurred.

## **III. JURISDICTION**

5. The claims in this suit are within the jurisdictional limits of this Court.

## **IV. VENUE**

6. Venue is proper under the TEXAS CIVIL PRACTICE & REMEDIES CODE § 15.002 as a substantial part of the events or omissions complained of occurred in Nueces County. The insurance policy was purchased in Nueces County, the policy was negotiated in Nueces County, and the business covered by the policy maintains its place of business in Nueces County.

## **V. FACTS**

7. Plaintiff BANDAS LAW FIRM, PC purchased a Professional Liability Policy (Policy # LHR760431 from its insurance agent Swingle, Collins & Associates in Dallas, Texas. The policy was issued by Landmark. The policy period was from November 3, 2016 to November 3, 2017.

8. The Professional Liability Policy requires Landmark to provide a defense and indemnity for actions covered by the policy. Instead of providing a defense pursuant to that policy, Landmark elected to interpose additional restrictions on the contract for insurance. Specifically, Landmark demanded that counsel representing Bandas and the Bandas Law Firm, PC abide by billing guidelines and substantially reduced hourly rates for defense counsel not contained within the policy of insurance.

## **VI. BREACH OF CONTRACT**

9. Defendant's conduct constitutes a breach of contract as Defendant has failed to comply with the terms and requirements of the policy, including both actual and anticipatory breaches of the terms of the policy in failing to provide for payment of defense costs, instead imposing limitations not found in the contract of insurance.

10. Defendants' wrongful conduct was a producing cause of plaintiff's injury, which resulted in damages for loss of benefits under the policies within the jurisdictional limits of the court.

11. Plaintiff seeks recovery of unliquidated damages within the jurisdictional limits of this court.

## **VII. DAMAGES**

12. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs seeks monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees. Additionally, as a statement more specific than required by Rule 47 Plaintiffs seek damages in an amount less than \$75,000.

## **VIII. JURY DEMAND**

13. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

## **IX. REQUEST FOR DISCLOSURES**

14. Under Texas Rule of Civil Procedure Rules 192, 194, and 190.2(b)(6), plaintiff requests that defendants disclose, within 50 days of the service of this request, the information or material described in Rule 192, 194, and 190.2(b)(6).

**X. PRAYER FOR RELIEF**

15. For the reasons set forth herein, Plaintiff asks that the court issue citation for Defendants to appear and answer, and that Plaintiff be awarded a judgment against Defendant for the following:

- a. Actual damages;
- b. Pre-judgment and post-judgment interest;
- c. Court costs;
- d. Treble Damages and penalties;
- e. Attorneys' fees;
- f. Declaration that Defendants have a duty to defend Plaintiff in the underlying lawsuit;
- and
- g. All other relief to which plaintiff is entitled.

Respectfully submitted,

/s/ Eric Stewart

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JOHN SWALLOW

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jswallow@husemanstewart.com

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## CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): 2017DCV-0540-B COURT (FOR CLERK USE ONLY):

STYLED Bandas Law Firm, PC a Texas Professional Corporation & Christopher Bandas v. Landmark American Insurance Co.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b> Name: <u>Eric Stewart</u> Email: <u>estewart@husemanstewart.com</u> Address: <u>615 N Upper Broadway, #2000</u> Telephone: <u>361-883-3563</u> City/State/Zip: <u>Corpus Christi, TX 78401</u> Fax: <u>361-883-0210</u> Signature: <u>[Signature]</u> State Bar No: <u>24058133</u>		<b>Names of parties in case:</b> Plaintiff(s)/Petitioner(s): <u>Bandas Law Firm, PC</u> <u>Christopher Bandas</u> Defendant(s)/Respondent(s): <u>Landmark American Insurance Co.</u> (Attach additional page as necessary to list all parties)		<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
<b>2. Indicate case type, or identify the most important issue in the case (select only 1):</b>					
<b>Civil</b>			<b>Family Law</b>		
<b>Contract</b> <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input checked="" type="checkbox"/> Other Debt/Contract: <u>Insurance contract</u> <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<b>Post-judgment Actions (non-Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<b>Other Civil</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
<b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<b>Probate &amp; Mental Health</b> <b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input checked="" type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
<b>4. Indicate damages sought (do not select if it is a family law case):</b> <input checked="" type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

CERTIFIED MAIL

OFFICIAL BUSINESS  
STATE OF TEXAS  
PENALTY FOR PRIVATE USE



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